

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 10, 2004**

AGENDA ITEM NO.: 5

CONSENT: **X**

REGULAR:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Lynchburg Municipal Employees Federal Credit Union (LMEFCU) Extension Of Agreement Of Lease**

RECOMMENDATION: Approve the extension of the lease agreement with Lynchburg Municipal Employees Federal Credit Union (LMEFCU) for an additional five years.

SUMMARY: In October 1999 the City and LMEFCU entered into an Agreement of Lease wherein the Credit Union leased the “Caretaker’s House” at the City Stadium for the purpose of operating the Credit Union for a term of five years. That lease agreement will end on September 30, 2004. The lease agreement stated that at the end of the initial five-year period, the City and the Credit Union would consider the option of extending the lease for additional terms of five years each.

In 1990 the Credit Union moved into the “Caretaker’s House.” At that time the Credit Union expended approximately \$80,000 on the interior renovations to this house. In 2000 the Credit Union expended another \$235,000 on an addition to the building.

The Credit Union is owned and operated by its members. The field of membership includes City and School employees, Constitutional offices, and other Select Employee Groups (SEG). This membership also includes any family member, by blood, marriage or adoption of the employee.

The Credit Union requests your approval of this extension of Agreement of Lease and the opportunity to continue its operations and financial services to its field of membership.

PRIOR ACTION(S): None

FISCAL IMPACT: N/A

CONTACT(S): Melva Walker – 455-3916

ATTACHMENT(S): Agenda Summary – 10/12/1999
Lease Agreement – 10/25/1999
Extension of Agreement of Lease (Proposed)

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the City Manager is authorized to execute an extension of agreement of lease with Lynchburg Municipal Employees Federal Credit Union (LMEFCU) for the period of October 1, 2004 through September 30, 2009.

Adopted:

Certified:

Clerk of Council

EXTENSION OF AGREEMENT OF LEASE

THIS AGREEMENT FOR EXTENSION OF LEASE, made and dated this 1st day Of October, 2004, by and between the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "City" and the LYNCHBURG MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION, hereinafter referred to as the "Credit Union".

W I T N E S S E T H:

WHEREAS, the City is the owner of a certain building located within the City limits at the Lynchburg City Stadium, at 3176 Fort Avenue, and known as the "Caretaker's House," and,

WHEREAS, the City and the Credit Union entered to an Agreement of Lease dated October 25, 1999 , wherein the Credit Union leased the Caretaker's House for the purpose of operating a Municipal Employees Credit Union for a term of five years, beginning on the 1st day of October, 1999 and ending on the 30th day of September, 2004; and,

WHEREAS, Article II-Term, of the October 25, 1999 Agreement of Lease provides that at the end of the initial five-year term, the City and the Credit Union have the option of extending the lease for additional terms of five years each; and,

WHEREAS, the City and the Credit Union desire to extend the Agreement of Lease for an additional five year term.

NOW, THEREFORE, WITNESSETH, That for and in consideration of the premises and the mutual covenants and agreements contained herein, the City and the Credit Union do mutually agree to extend the October 25, 1999 Agreement of Lease for an additional five year term, beginning on the 1st day of October, 2004 and ending on the 30th day of September, 2009.

Except as modified herein, all of the terms and conditions contained in the October 25, 1999 Agreement of Lease between the City and the Credit Union shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Extension of Agreement of Lease as of the day and year above written.

City of Lynchburg

By: _____
L. Kimball Payne, City Manager

LYNCHBURG MUNICIPAL EMPLOYEES

By: _____
President

LYNCHBURG CITY COUNCIL REPORT

Meeting Date: October 12, 1999

Council Report # 3

Strategic Leadership Team Contact: Charles Church

Report Writer: Melva Walker

Subject: Lynchburg Municipal Employees Federal Credit Union (LMEFCU) Lease Agreement

Purpose of Action:

- Re-negotiation of lease agreement for LMEFCU

Requested Action: Public Hearing for five-year lease agreement with LMEFCU

Prior Action: None

Attachments: Lease Agreement

Resolution/Ordinance:

#R-99-222

BE IT RESOLVED that the City Manager is authorized to execute a lease agreement with Lynchburg Municipal Employee Federal Credit Union (LMEFCU) for use of city-owned property for the period of October 1, 1999 though September 30, 2004 with a renewal option of five years.

Adopted: October 12, 1999

Certified:

William W. Cost
Clerk of Council

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Other Information: The Credit Union was chartered on August 8, 1961 by a group of City employees. Credit Union services were available to employees of the City of Lynchburg and immediate family members only. In the late 1970's, other groups joined the Credit Union (i.e. Magistrate's Office, Constitutional offices). Nineteen years later, the Lynchburg Educators Association Credit Union (Schools) merged with the LMEFCU. In 1993, the LMEFCU changed its Bylaws to include any family member, by blood, marriage or adoption of the employee.

The LMEFCU is owned and operated by its members. Each member has a crucial role in the successful operation of the Credit Union. Members are encouraged to participate, especially with the nomination and selection of the Board of Directors. The Board of Directors and committees consist of volunteer members who make decisions based on the needs and suggestions of the total membership.

The Credit Union currently has over 3,500 members and assets at \$8.4 million. The assets have increased \$1.1 million over the last 12 months. In 1998 loans increased by \$412,000 equating to a 9.1% increase; shares increased by \$1.2 million or 22.8%; assets by \$1.2 million or 20.7%. In the National Credit Union Administration (NCUA) audit that was conducted as of June 30, 1998 the Credit Union was rated at its highest evaluation during the 37 years of service. The key ratios for this evaluation were capital, asset quality, earnings, and asset/liability management.

We offer a wide range of financial services to meet members' needs (i.e. personal, debt consolidation, vehicle, and home improvement loans; Share accounts, Christmas and Vacation Share accounts, and Money Market accounts). The Mission Statement for the Credit Union is - Lynchburg Municipal Employees Federal Credit Union, a member-owned and operated credit union, is in business to provide a full range of services. We are committed to meeting member needs through thrift and financial planning. We are "people helping people" through commitment, quality service and a friendly family.

In 1990 the Credit Union moved into a newly renovated office at the "Caretakers" House at the City Stadium. The Credit Union expended approximately \$80,000 on the interior renovations to this house. This provided us with more office space, a drive-thru window and night deposit. At present our membership has grown to the point that we are once again faced with needing more office and storage space. Plans are underway for a major capital investment to add an addition to the present location and expand our services for our members. The central location of the Credit Union makes it easily accessible for all of our membership. This location also provides ample parking space for our members.

The proposed lease agreement will allow us to continue to operate the Credit Union at its present location for our membership.

Cc: C. F. Church
~~M. Walker~~

THIS AGREEMENT OF LEASE made and dated this 25th day of

October, 1999, by and between the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "City", and the LYNCHBURG MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION, hereinafter referred to as the "Credit Union;"

WITNESSETH:

WHEREAS, the City is the owner of a certain house located in the City limits at the Lynchburg City Stadium, at 3176 Fort Avenue, and known as the "Caretaker's House," hereinafter referred to as the "premises," and,

WHEREAS, the Credit Union desires to lease the premises from the City for the operation of the Municipal Credit Union under the terms and conditions contained in this lease agreement;

NOW THEREFORE, for and in consideration of the promises and the mutual covenants and agreements contained herein the City and the Credit Union do hereby agree as follows:

ARTICLE I - PREMISES

The City hereby leases to the Credit Union the house located at the Lynchburg City Stadium, 3176 Fort Avenue, and known as the "Caretaker's House." The "premises" only refers to the building known as the "Caretaker's House" and does not include the adjacent parking lot and grounds.

ARTICLE II - TERM

The initial term of this lease shall be for a period of five years, beginning on the 1st day of October, 1999 and ending on the 30th day of September, 2004, unless the lease shall be terminated sooner as provided herein. At the end of the initial five-year term, the City and the Credit Union have the option of extending the lease for additional terms of five years each, upon such terms and conditions as are mutually agreeable to the City and the Credit Union.

ARTICLE III - RENT

The Credit Union agrees to pay the City the sum of \$1.00 per year as rent for its use of the premises.

ARTICLE IV - MAINTENANCE AND REPAIR OF THE CARETAKER'S HOUSE

The Credit Union has examined the premises and agrees to accept them in their current condition. During the term of this lease the Credit Union is solely responsible for maintaining the premises in good order and repair at its expense. The City is under no obligation to make any repairs, improvements or provide any maintenance to the premises during the term of this lease. It is anticipated that the Credit Union will perform, at its sole expense, a mutually agreeable program of renovation and expansion of the premises. Prior to beginning its capital renovation and expansion program, the Credit Union shall submit the plans and designs for its capital renovations and expansion to the City and the City shall approve the same in writing

before the Credit Union shall begin its renovation and expansion work. The City shall be under no obligation to reimburse Credit Union for the cost of such renovations and expansion.

The Credit Union will be responsible for providing and paying for all heat, electricity, water, telephone services and other utilities that its use of the premises may require, including all deposits and installation costs for meters and utility services.

The Credit Union shall also be responsible for maintaining the premises in a clean, sanitary and safe condition throughout the term of this lease and agrees that, except during its renovation and expansion work, there will be no outside storage of equipment, materials, supplies or similar items.

The City reserves the right to develop a program of preventive maintenance that must be performed by someone authorized under state and local ordinances and the Credit Union shall follow such preventive maintenance program to preserve and protect the premises and keep them in a safe condition. The City reserves the right to enter the premises during all reasonable business hours for inspection to ensure the maintenance provisions of this lease are being met. Should the Credit Union fail to keep the premises in good order and repair as required to preserve the general appearance and value of the premises, or to comply with the City's maintenance schedule, and if such maintenance and repair is not undertaken within 10 days after receipt of written notice from the City, the City shall have the right to enter the premises and perform the necessary maintenance or repairs, and the Credit Union shall be responsible for the cost of such work by the City.

ARTICLE V - RULES & REGULATIONS

The Credit Union shall observe all Federal, State and local laws, rules and regulations whether currently in force or subsequently adopted that apply to its use of the premises.

ARTICLE VI - DAMAGE OR DESTRUCTION OF PREMISES OR PROPERTY

The Credit Union shall insure the Caretaker House and its fixtures for the full replacement value against damage or destruction by fire, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicle and smoke or other casualty. At this time the estimated replacement cost of the existing building is \$200,000.00. The Credit Union shall regularly review and update the replacement value and insurance coverage. The City and Credit Union shall be named as insureds on the all risk replacement cost property insurance policy to the extent of their interests in the premises. At this time the City's insurable interest is \$200,000.00, which is the estimated replacement cost of the existing building. The Credit Union's interest shall be the value of any addition or improvements it adds to the existing building. The City assumes no obligation whatsoever to repair or replace any portion of the premises or fixtures that are destroyed by casualty.

If the premises shall be partially damaged, but not rendered untenable, by fire, the elements, the public enemy or other casualty, and not by the negligent or willful acts of the Credit Union, its employees, agents or any person it permits to be on the premises, the Credit Union shall turn over to the City the City's share of the insurance proceeds received for the damage to the premises, and the City will effect repairs of the extent of such proceeds. If the damage shall be so extensive as to render the premises untenable, but capable of being

repaired within 30 days, the Credit Union shall turn over to the City the City's share of the insurance proceeds received for the damage to the premises, and the City will effect repairs to the extent of such proceeds. If the premises are completely destroyed by fire, the elements, the public enemy, or other casualty, or are so damaged that it will or remains untenable for more than 30 days, then, the Credit Union shall turn over to the City the City's share of the insurance proceeds received for the damage or destruction, and the City, at its sole option, may (1) repair and reconstruct the premises to the extent of said proceeds or (2) notify the Credit Union within 60 days of the time of such damage or destruction that the City does not propose to restore the premises, in which case the City shall give the Credit Union notice of its intention to cancel this lease in its entirety, as of the date of such damage or destruction.

The Credit Union is responsible for any damage or destruction of the premises caused by the negligent or willful acts of the Credit Union, its employees, agents, or any person it permits to be on the premises.

The City shall not be liable for any damage or injury to the Credit Union, to any persons, or to any property located on or about the premises caused by fire, explosion, water, gas, electricity, leaks from the roof or any other portion of the premises, bursting or leaking pipes, plumbing, electrical wiring or equipment or fixtures of any kind. The City will not carry, and will not be obligated to provide any "content coverage" insuring the contents of the premises.

ARTICLE VII - INSURANCE AND INDEMNITY

Indemnification. The Credit Union shall indemnify, save harmless and provide a

defense for the City, its agents, officials and employees, from any and all liability, damages, expenses, causes of action, suits, claims or judgments including all courts costs and legal fees and other costs incurred in defending such claims, which may accrue against, be charged to, or recovered from or sought to be recovered from the City, its agents, officials and employees, by reason of or on account of damage to the property of the City and the property of, injury to or death of any person arising from the Credit Union's use and occupancy of the premises; and shall afford the City a reasonable opportunity to investigate any such claims. The Credit Union is not required to indemnify or provide a defense for the City for the negligent or willful acts or omissions of the City's agents, officials, and employees.

Insurance. In addition to any insurance coverage required by Article VI of this lease, the Credit Union shall obtain and maintain in effect throughout the term of this lease the following insurance coverages:

- (a.) Comprehensive General Liability Insurance of \$1,000,000 for bodily injury and property damage.
- (b.) Worker's Compensation Insurance as required by the Commonwealth of Virginia.
- (c.) All other insurance that may be required by law for the Credit Union's activities.

Required Provisions. All insurance required by this lease shall be obtained in accordance with the following:

(a.) The City, its officials, employees, agents and volunteers (the City) shall be added as "insureds" under the terms and conditions of the policies covering liability for personal and or physical injuries (including death) and property damage.

(b.) Any deductibles or self-insured retentions applicable to the required coverages shall be paid by the Credit Union, and the City shall not be required to participate therewith.

(c.) Each of the insurance policies and certificates required herein except for Worker's Compensation Insurance, shall contain a provision that the insurance company agrees that 30 days prior to cancellation of or reduction in the insurance afforded by the policy, written notice shall be provided to the City's Risk Management Division.

(d.) The insurance required of the Credit Union shall be primary, and any insurance or self-insurance maintained by the City shall be in excess of the insurance required of the Credit Union and shall not contribute therewith.

(e.) The Credit Union's failure to comply with any reporting provisions of the insurance policies shall not affect the coverage provided to the City.

(f.) Neither party hereto shall be liable to the other party or to the insurer of the other party claiming by way of subrogation through or under such other party with respect to any loss or damage to the extent that such other party shall be reimbursed or has a right to be reimbursed out of that party's property insurance coverage carried for such other party's protection with respect to such loss or damage, and the parties specifically waive, but only to the extent permitted by provisions of the insurance policy in question, their rights of subrogation as aforesaid. It is further understood and agreed that if either party's insurer does

not waive its right of subrogation or the insurer's policy prohibits or does not allow for said waiver of subrogation, then the other party is also relieved of its waiver of subrogation obligation as aforesaid.

(g.) All insurance will be obtained by the Credit Union from insurance companies authorized by the Virginia State Corporation Commission to do business in Virginia.

General Provisions.

(a.) Each year the Credit Union shall provide the City's Risk Management Division with Certificates of Insurance confirming the required insurances and coverages and the additional insured endorsement, signed by a person authorized by the insurance company to bind the company to the representations contained therein. Certificates of insurance will also be provided to the City's Risk Management Division by the Credit Union upon execution of this lease and at such other times throughout the term of this lease within 10 days of a request by the City for confirmation of insurance.

(b.) The failure of the Credit Union to maintain all of the insurance coverages required by this article or to pay all of the insurance premiums when due and payable shall be grounds for the immediate termination of this lease without any prior notice by the City.

(c.) The Credit Union's liability to the City under this article shall not be limited to the amounts of the insurance coverage provided herein.

(d.) The City reserves the right to review and/or modify the insurance requirements prior to any renewal or extension of this lease.

(e.) During the construction of any addition to the existing building the Credit Union shall require the general contractor to obtain and carry a Builders Risk Insurance Policy in the amount of \$200,000.00 plus the contract price for new addition to the existing building.

ARTICLE VIII - TERMINATION

In the event the Credit Union fails to perform any of the terms and conditions required by this lease and fails to remedy such default within a period of thirty days after receipt of written notice from the City to remedy the same, the City shall have the right to terminate this lease without any additional notice to the Credit Union. However, the failure of the Credit Union to maintain the required insurance coverages and to pay all of the insurance premiums when due and payable shall be grounds for the immediate termination of this lease without any prior notice by the City.

USE AND ASSIGNMENT

The Credit Union shall use the premises solely for the purpose of operating the Municipal Employees Credit Union. The premises are not to be used for any other purpose without the prior written consent of the City. The Credit Union shall not sublease, sublet or assign any portion of the premises without the prior written consent of the City.

ARTICLE X - NOTICE

Notices to the Credit Union shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to the President, Lynchburg Municipal Employees Federal Credit Union, 3176 Fort Avenue, Lynchburg, VA 24501, or to such other representatives as the

Credit Union may designate to the City in writing from time to time. Notices to the City shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to the City Manager, Lynchburg City Hall, P.O. Box 60, Lynchburg, Virginia 24505, or to such other persons as the City may designate in writing from time to time.

ARTICLE XI - GENERAL PROVISIONS

(a.) **Snow Removal.** The Credit Union will responsible for removing snow from the sidewalk leading from the parking lot to the "Caretaker's House." The City will be responsible for removing snow from the parking lot.

(b.) **Security.** The Credit Union shall be solely responsible for providing any and all security needed for the premises.

(c.) **Renovation of Stadium Property.** It is agreed and understood that major renovations or rebuilding may take place at the City Stadium during the term of this lease and the Credit Union accepts this lease subject to any inconvenience or loss which may become necessary because of said renovation, rebuilding, construction or expansion. The City agrees that, except in emergencies, it will give the Credit Union at least four days notice of any renovation or construction work that will limit the Credit Union's members access to the premises.

(d.) **Loss of Revenue.** The City shall not be liable for any loss of revenue to the Credit Union resulting from the City's actions in the maintenance and operation of the City Stadium and its facilities.

(e.) Entire Agreement. All terms and conditions with respect to this lease are expressly contained herein and both parties agree that no representative or agent of the City or the Credit Union has made any representation or promise with respect to this lease not expressly contained herein.

(f.) Severability. In the event that any provision of this lease shall be found to be invalid or unenforceable, then the remaining portions shall remain in full force and effect.

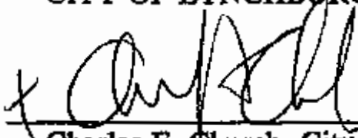
(g.) Loss of or Damage to Property. The City shall not be liable for any damages to or any loss of the credit union's property or to the property of its customers, employees or agents or any other person in, on or about the demised premises. The Credit Union, its customers, employees and/or agents in placing or bringing their property on the premises or on the Stadium grounds do so at their own risk.

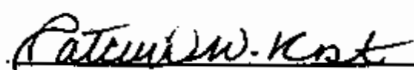
(h.) Governing Law. This lease shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF the City of Lynchburg has caused its name to be hereunto subscribed by Charles F. Church, its City Manager, and attested by Patricia W. Kost, its Clerk of Council, and the Lynchburg Municipal Employees Federal Credit Union has caused its name to be hereunto subscribed by its president and duly attested by its treasurer, all as the day and year first above written.

CITY OF LYNCHBURG

By:

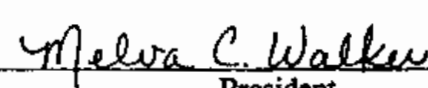

Charles F. Church, City Manager


Patricia W. Kost

Clerk of Council

LYNCHBURG MUNICIPAL EMPLOYEES
FEDERAL CREDIT UNION

By:


President

Attest:



Treasurer